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CASE 4-30652A/C1/30889



OFFICE OF PETITIONS

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EV 336718471 US

January 21, 2004

Express Mail Label Number

Date of Deposit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Art Unit: 1614

ALLGEIER ET AL.

Examiner: Delacroix-Muirheid, C.

APPLICATION NO: 09/821,416

FILED: MARCH 29, 2001

FOR: mGluR5 ANTAGONISTS FOR THE TREATMENT OF PAIN AND ANXIETY

MAIL STOP PETITION

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.78(a)(3) TO OBTAIN AN UNINTENTIONALLY DELAYED CLAIM
OF PRIORITY UNDER 35 U.S.C. §120

Sir:

Applicants hereby respectfully file this petition pursuant to 37 CFR 1.78(a)(3) in order to obtain the benefit of the filing date of U.S. Application No. 09/220,813 under 35 U.S.C. §120.

As is clear from: 1) the enclosed copy of the Declaration which accompanied the transmittal papers at the time the instant application was filed; and 2) the enclosed copy of the Information Disclosure Statement and Claim of Priority filed July 10, 2001, Applicants intended to claim the benefit of International Application No. PCT/EP 99/07239, filed September 30, 1999, and U.S. Application No. 09/220,813, filed December 23, 1998, under 35 U.S.C. §120. Unfortunately, however, only the filing date of the International Application was explicitly reflected in the cross-reference that was introduced by the Preliminary Amendment which accompanied the transmittal papers at the time the instant application was filed. Accordingly, in the Amendment which is being concurrently filed, a copy of which is enclosed, the "original" cross-reference has been replaced by a "new" cross-reference which explicitly reflects the fact that Applicants claim priority from International Application No. PCT/EP 99/07239, filed September 30, 1999, and U.S. Application No. 09/220,813, filed December 23, 1998.

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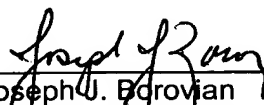
Please charge the \$1,330 surcharge fee required by 37 CFR 1.17(t) and any additional fees that may be required to Deposit Account No. 19-0134 in the name of Novartis Corporation. An additional copy of this Petition is enclosed.

In accordance with 37 CFR 1.78(a)(3)(iii), it is respectfully submitted that the entire delay between the date the claim was due under paragraph (a)(2)(ii), viz., July 29, 2001, and the date that the claim was filed, viz., the date of the enclosed Amendment, i.e., January 21, 2004, was unintentional.

In view of the foregoing, Applicants respectfully request that the instant Petition be granted.

Respectfully submitted,

Novartis
Corporate Intellectual Property
One Health Plaza, Building 430
East Hanover, NJ 07936-1080



Joseph U. Borovian
Agent for Applicants
Reg. No. 26,631
(862) 778-7801

JJB/ld

Encls.: Copy of Declaration
Copy of IDS and Claim of Priority
Copy of Amendment
Additional copy of this Petition
Postcard

Date: January 21, 2004